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* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 13.02.2024

+ W.P.(CRL) 508/2024

GAURAV KUMAR

..... Petitioner

Through: Mr.Hemant Kapoor and Mr.Rachit
Singh, Advocates

versus

GOVT OF NCT OF DELHI & ANR.

..... Respondents

Through: Ms.Rupali Bandhopadya, ASC,
GNCTD with SI Yogesh Kumar, PS
Kotwali, Delhi.

CORAM:

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

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J U D G M E N T**ANOOP KUMAR MENDIRATTA, J (ORAL)****CRL.M.A. 4604/2024**

Exemption allowed, subject to just exceptions.

Application stands disposed of.

W.P.(CRL.) 508/2024

1. Petition under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') has been preferred on behalf of the petitioner for a direction to respondents No.1 and 2 to transfer the investigation in Complaint Case No.1465/2023 pending before learned MM (Central), Tis Hazari Courts, New Delhi from Police Station Kotwali to Special Cell, CBI or any other investigation agency.

2. Issue notice. Learned ASC, GNCTD for the respondents appears on



advance notice and accepts notice.

3. The grievance of the petitioner is that since the FIR was not registered on complaint filed by petitioner by the concerned Police Station, a complaint case with application under Section 156(3) Cr.P.C. was preferred before the learned MM. However, even pursuant to directions under Section 156(3) Cr.P.C. matter has not been properly investigated by SI Sandeep Mathur, due to collusion with the culprits and CCTV footage has not been collected.

4. Learned ASC submits that grievance against SI Sandeep Mathur (IO) does not remain of much relevance since he has already been transferred and the matter has been handed over to SI Yogesh Kumar, Police Station Kotwali, Delhi. It is further pointed out that, report pursuant to investigation under Section 156(3) Cr.P.C. has already been filed before the learned MM, whereby it has been concluded that the dispute between the parties is of civil nature and relates to landlord –tenant dispute. Learned ASC, on instructions of IO, further submits that the petitioner did not join the investigation and failed to produce the mortgaged deed and complaints have been made through e-mail, which is denied by the learned counsel for the petitioner.

5. It is well settled that the Magistrate has got the powers to direct registration of FIR by police, if the facts and circumstances reveal commission of a cognizable offence. The MM may also direct a proper investigation or monitor the same if circumstances so warrant. This Court is of the opinion that, at this stage, it may be premature to intervene in the proceedings since pursuant to the directions under Section 156(3) Cr.P.C., the report has already been filed by the investigating agency which shall be considered by the learned MM in accordance with law. If the petitioner is still aggrieved against the orders passed by the learned MM, he is at liberty



to file appropriate proceedings, in accordance with law. Since, alternate remedy under Section 156(3) Cr.P.C. has already been availed, it is not a fit case for exercise for powers under Article 226 of the Constitution of India.

Petition is accordingly disposed of. Pending applications, if any, also stand disposed of. Nothing stated herein shall tantamount to any expression of opinion on the merits of the case.

A copy this order be forwarded to learned MM for information.

ANOOP KUMAR MENDIRATTA, J.

FEBRUARY 13, 2024/v